

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

**TRACEY SCOTT MASSAY, #29491-177 §**

**VS. § CIVIL ACTION NO. 5:05cv7**

**UNITED STATES OF AMERICA §**

**ORDER OF DISMISSAL**

Plaintiff Tracey Scott Massay, an inmate confined at F.C.I. Texarkana, filed this Federal Tort Claims Act claim against the United States for negligence. The complaint was referred to United States Magistrate Judge Caroline M. Craven, who issued a Report and Recommendation concluding that the motion for summary judgment filed by the United States should be granted. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Plaintiff are without merit.

The facts of the case reveal that the Plaintiff was injured while playing softball in the F.C.I. Texarkana recreational yard. His injuries included fractures to his left leg and ankle. He sued the United States to obtain funds for future medical needs, pain and suffering and lost income earning capacity. The competent summary judgment evidence reveals, however, that

neither the United States nor any employees violated the standard of care owed to the Plaintiff. The Plaintiff's injuries were unfortunate, but the United States was not responsible. Therefore the findings and conclusions of the Magistrate Judge are adopted as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the motion for summary judgment (docket entry #30) is **GRANTED**.

It is further

**ORDERED** that the complaint is **DISMISSED** with prejudice. It is finally

**ORDERED** that all motions not previously ruled on are **DENIED**.

**SIGNED this 23rd day of November, 2005.**

A handwritten signature in black ink, appearing to read "David Folsom", is written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE